

The Hearing Process for Appeals

Disclaimer: This document is intended to help you understand the hearing process and does not constitute legal advice.

You may request review by a hearing officer if you receive:

- an order, decision, or administrative penalty assessed by the [Investigations and Enforcement Bureau \("IEB"\)](#) relative to the interpretation or application of a statute, regulation, or other applicable authority.
- disciplinary action or a penalty imposed by a judge with the [Division of Racing](#) or the Massachusetts State Police.

Download and fill out a ["Request for a Hearing" form](#) found on the [Hearings and Appeals](#) page of the Commission's website and follow the instructions. You may hire an attorney to represent you, or you may choose to represent yourself.

What Happens Next:

- **Status Conference:** Within ten days of receiving your request, the clerk of the Commission will notify you via email of receipt of your request and will schedule a status conference to be conducted remotely via the OfficeSuite HD Meeting video conferencing platform. You will be provided the information to join the status conference at the scheduled date and time. It is strongly recommended that you test your access to the platform prior to your scheduled status conference. In addition to yourself and/or your attorney, should you choose to retain one, the other participants on the call will be the hearing officer and the IEB or Racing Division's attorney(s). The purpose of this conference is to set a date and time for your hearing, establish additional dates necessary for filing materials before the hearing, and discuss any other relevant matters.

During the Status Conference:

- The hearing officer will ask if you would like to proceed with your hearing under the [Formal or Informal Rules](#) of Practice and Procedure. You will have the option to discuss the difference between formal and informal rules with the hearing officer at this time.
- **Briefs:** The hearing officer may require, or will ask if you would like to, file a brief prior to the hearing. If you choose to file a brief, the hearing officer will set a due date. A brief is a party's written argument filed with the clerk for review by the hearing officer. The brief should present your case as to why you believe the order, decision, disciplinary action, or penalty is incorrect and should contain a conclusion

stating the precise relief you seek. Briefs cannot be longer than 15 double-spaced pages unless you receive special permission from the hearing officer. The IEB or Racing Division's attorney may then file a reply brief responding to your arguments.

- **Witness List and Exhibits:** The hearing officer will establish due dates for the filing of witness lists and exhibits by both parties. A witness list is a document that lists the name(s) of anyone who will appear at the hearing to testify. An exhibit is a document or other tangible item (i.e. ID card) that a party will produce as evidence for the hearing officer's inspection. Exhibits are subject to objection by the other party at the hearing.
- The hearing officer will schedule the date for the hearing which may be held either remotely or in person. You will receive a Hearing Notice which will contain information on how to access the hearing remotely and/or the location of the hearing.

All filings and any communications to the clerk must copy all other parties. Once the parties file their briefs, if required, witness lists and exhibits with the clerk, please familiarize yourself with the documents prior to the hearing date. It is your responsibility to open any emails sent by the clerk or the IEB or Racing Division's attorney. You are allowed to print the documents for reference during the hearing.

At the Hearing:

- Be on time, be prepared, and be courteous and respectful.
- If the hearing is held remotely, make sure you are in a quiet area indoors.
- Dress professionally.
- Speak clearly.
- Do not interrupt the hearing officer while he is speaking.
- Always answer the hearing officer clearly and concisely.
- Allow the IEB or Racing Division's attorney to speak when it is their turn. You will also have an opportunity to present your case and respond.
- **Witnesses:** You may invite the individuals you included on your witness list to testify on your behalf in response to questions you ask them. In turn, they will be required to answer questions under cross-examination by the IEB or Racing Division's attorney. Similarly, the IEB or Racing Division will question its witnesses, and you may cross-examine those witnesses if you wish. Cross-examination questions should not be used to grandstand or argue with the witness. You should be courteous and respectful.

Decision:

- After the conclusion of the hearing, the hearing officer will issue a written decision which will either grant or deny your appeal. The hearing officer usually issues decisions within 30 days of the hearing. The clerk will email the decision to you and the IEB or Racing Division's attorney. The decision will also provide notice of the parties' right to appeal the decision to the Commission.

For further resources governing the hearing process, please review [205 CMR 101.02](#), [M.G.L. c. 30A](#), sections 10 and 11, and [801 CMR 1.02](#), as indicated at the bottom of your Request for a Hearing form.